

STATE OF MICHIGAN
COURT OF APPEALS

ROSEMARY WITHAEGER,

Plaintiff-Appellant,

v

COUNTY OF WAYNE, owner of DETROIT
METROPOLITAN AIRPORT,

Defendant-Appellee.

UNPUBLISHED

December 8, 1998

No. 202672

Wayne Circuit Court

LC No. 95-517160 NO

Before: Sawyer, P.J., and Wahls and Hoekstra, JJ.

MEMORANDUM.

Plaintiff appeals as of right an order of the circuit court granting defendant's motion for summary disposition on governmental immunity grounds. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff, a flight attendant with Northwest Airlines, was injured when she was standing in a room waiting for a service elevator to the departure concourse. The area was restricted by federal regulation to authorized employees. Between 6:00 a.m. and 10:00 p.m., Northwest posted a guard at the door to exclude unauthorized persons. Plaintiff alleged that her injury came within the public building exception to governmental immunity.

The public building exception to governmental immunity provides in part:

Governmental agencies have the obligation to repair and maintain public buildings under their control when open for use by members of the public. Governmental agencies are liable for bodily injury and property damage resulting from a dangerous or defective condition of a public building if the governmental agency had actual or constructive knowledge of the defect, and for a reasonable time after acquiring knowledge, failed to remedy the condition or to take action reasonably necessary to protect the public against the condition. [MCL 691.1406; MSA 3.996(106)].

Before the public building exception will apply, a plaintiff must prove that (1) a governmental agency is involved, (2) the public building in question is open for use by members of the public, (3) a dangerous or defective condition of the building itself exists, (4) the governmental agency had actual or constructive knowledge of the defect, and (5) the governmental agency failed to remedy the alleged defective condition after a reasonable period. *Jackson v Detroit*, 449 Mich 420, 428; 537 NW2d 151 (1995); *Steele v Dep't of Corrections*, 215 Mich App 710, 713-714; 546 NW2d 725 (1996). The focus is on the accessibility to members of the general public rather than on the extent to which the building might benefit the community. *Id.* at 714; *Brown v Genesee Co Bd of Comm'rs*, 222 Mich App 363, 366; 564 NW2d 125 (1997), lv pending.

Plaintiff failed to present evidence that the area in which she was injured was open to the general public. Therefore, the trial court properly granted summary disposition where plaintiff's injury did not fall within the public building exception.

Affirmed.

/s/ David H. Sawyer

/s/ Myron H. Wahls

/s/ Joel P. Hoekstra